

Arizona v. Johnson

--- U.S. --- (2009)

Decided January 26, 2009

FACTS: On April 19, 2002, Officer Trevizo and Detectives Machado and Gittings, members of a gang task force, were patrolling in Tucson "near a neighborhood associated with the Crips gang." They pulled over a vehicle when a check showed that the vehicle's registration had been suspended for a violation related to insurance. (The violation justified a citation.) The car had three occupants, the driver, a front-seat passenger and a back-seat passenger (Johnson). At the time of the stop, the officers had no suspicion of criminal activity.

When asked by Det. Machado, the occupants denied having any weapons. He had the driver get out. Gittings "dealt with the front-seat passenger, who stayed in the vehicle throughout the stop." Officer Trevizo "attended to Johnson." She had noticed that as they approached, "Johnson looked back and kept his eyes on the officers," and he wore clothing "consistent with Crips membership." She also spotted a scanner in Johnson's pocket. He produced no identification, but when requested, he provided his name and date of birth. He volunteered his hometown as one known for a Crips gang, and told her that he'd served time for burglary.

Wanting intelligence about his gang membership, she had him get out of the car. Suspecting (based upon the above observations) that he might have a weapon, she "patted him down for officer safety." During that frisk, she found a gun. He struggled, and was handcuffed. He was ultimately charged for possession of the gun, since he was a convicted felon, in state court.

Johnson requested suppression, but the trial court denied his motion. He was ultimately convicted. Johnson appealed to the Arizona Court of Appeals, which reversed his conviction, concluding that Officer Trevizo had no right to frisk Johnson. Arizona appealed, but the Arizona Supreme Court denied review. Arizona requested certiorari to the U.S. Supreme Court, which agreed to hear the case.

ISSUE: If a vehicle is stopped for a minor traffic violation, may a passenger be frisked when the officer has an articulable basis to believe the passenger might be armed and presently dangerous, but has no reasonable grounds to believe that the passenger is committing, or has committed, a criminal offense?

HOLDING: Yes

DISCUSSION: The Court quickly reviewed the precepts set forth in a line of cases beginning with Terry v. Ohio¹ and focusing specifically on three cases related to traffic stops: Pennsylvania v. Mimms², Maryland v. Wilson³, and Brendlin v. California.⁴ In Mimms, the Court noted, it was appropriate to have a driver get out of a vehicle, and further, to frisk that driver "if the officer reasonably concludes that the driver 'might be

¹ 392 U.S. 1 (1968).

² 434 U.S. 106 (1977).

³ 519 U.S. 408 (1997).

⁴ 551 U.S. 249 (2007).

armed and presently dangerous.” In *Wilson*, the Court extended that rationale to passengers. However, the *Wilson* Court acknowledge that there might be no reason to stop or detain passengers if the driver has committed a minor vehicular offense, but it emphasized “the risk of a violent encounter in a traffic-stop setting ‘stems not from the ordinary reaction of a motorist stopped for a speeding violation, but from the fact that evidence of a more serious crime might be uncovered during the stop.’” Finally, in *Brendlin*, the Court agreed that since a vehicle stop necessarily also stops the passenger, that a passenger “has standing to challenge a stop’s constitutionality.” Further, in an intervening case, in dictum, the Court had ruled that officers may frisk drivers and passengers upon “reasonable suspicion that they may be armed and dangerous.”⁵

The Court concluded:

A lawful roadside stop begins when a vehicle is pulled over for investigation of a traffic violation. The temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop. Normally, the stop ends when the police have no further need to control the scene, and inform the driver and passengers they are free to leave. An officer’s inquiries into matters unrelated to the justification for the traffic stop, this Court has made plain, do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop.⁶

The Court agreed that a traffic stop “communicates to a reasonable passenger that he or she is not free to terminate the encounter with the police and move about at will.” The Court, however, ruled that the officer “was not constitutionally required to give Johnson an opportunity to depart the scene after he exited the vehicle without first ensuring that, in so doing, she was not permitting a dangerous person to get behind her.”

The judgment of the Arizona Court of Appeals was reversed, and the case remanded for further proceedings.

FULL TEXT OF OPINION: <http://www.supremecourtus.gov/opinions/08pdf/07-1122.pdf>

⁵ *Knowles v. Iowa*, 525 U.S. 113 (1998).

⁶ *Muehler v. Mena*, 544 U.S. 93 (2005).